

108TH CONGRESS
1ST SESSION

H. R. 490

To improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. PETRI (for himself, Mr. GEORGE MILLER of California, Mr. OTTER, Mr. DOYLE, Mr. DICKS, Mr. ANDREWS, Mr. McDERMOTT, Mr. FRANK of Massachusetts, Mr. SMITH of Washington, Mr. WILSON of South Carolina, Mrs. MALONEY, Mr. GREENWOOD, Mr. WALSH, Mr. LATOURETTE, Mr. BOSWELL, Mr. HONDA, Mr. GREEN of Texas, Mr. TIERNEY, Mr. BACA, Mr. INSLEE, Mrs. DAVIS of California, Mr. PALLONE, Ms. BORDALLO, Mr. WAXMAN, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Instructional Materials
5 Accessibility Act of 2003”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to improve access to print-
3 ed instructional materials used by blind persons, or other
4 persons with print disabilities, in elementary schools and
5 secondary schools through the creation of a coordinated
6 and efficient system for acquisition and distribution of in-
7 structional materials in the form of electronic files suitable
8 for conversion into a variety of specialized formats.

9 **SEC. 3. TECHNICAL STANDARDS.**

10 (a) STANDARDS.—

11 (1) PUBLICATION.—The Secretary of Edu-
12 cation, in consultation with the National Institute of
13 Standards and Technology of the Department of
14 Commerce, shall publish in the Federal Register
15 technical standards, to be known as the Instruc-
16 tional Materials Accessibility Standards—

17 (A) as a proposed rule, not later than 270
18 days after the date of enactment of this Act;
19 and

20 (B) as a final rule, not later than 360 days
21 after the date of enactment of this Act.

22 (2) PUBLIC COMMENT.—The Secretary shall
23 provide an opportunity for the submission by the
24 public of comments regarding a proposed rule for at
25 least 30 days before publication under paragraph
26 (1)(B) of a final rule.

1 (3) CONTENTS.—The Instructional Materials
2 Accessibility Standards shall—

3 (A) define the specific technical parameters
4 of the national electronic file format to be used
5 by publishers of instructional materials in the
6 preparation of electronic files suitable for effi-
7 cient conversion into specialized formats; and

8 (B) be consistent with and based upon ex-
9 isting and emerging standards relating to elec-
10 tronic publishing and translation technology
11 used to produce specialized formats.

12 (b) ADVISORY COMMITTEE.—

13 (1) ESTABLISHMENT.—In developing the In-
14 structional Materials Accessibility Standards under
15 subsection (a), the Secretary shall, in consultation
16 with the National Institute of Standards and Tech-
17 nology and not later than 90 days after the date of
18 enactment of this Act, establish an advisory com-
19 mittee, to be known as the National Instructional
20 Materials Accessibility Advisory Committee, which
21 shall provide technical expertise and guidance to the
22 Secretary for the creation of the national electronic
23 file format.

24 (2) MEMBERS.—The Committee shall consist of
25 individuals who shall include at least one and not

1 more than two representatives of each of the fol-
2 lowing:

3 (A) Publishers of instructional materials.

4 (B) Producers of adaptive technology.

5 (C) Producers of materials in specialized
6 formats.

7 (D) Organizations for blind consumers.

8 (E) Special education programs.

9 (F) Developers of accessibility and pub-
10 lishing software and supporting technologies.

11 (G) Information technology standards or-
12 ganizations.

13 (H) Instructional materials resource cen-
14 ters with substantial experience in file format
15 preparation and automated conversion tech-
16 nology.

17 (I) Any other organization or interest that
18 the Secretary determines to be appropriate.

19 (c) REVIEW AND AMENDMENT.—The Secretary, in
20 consultation with the National Institute of Standards and
21 Technology and the National Instructional Materials Ac-
22 cessibility Advisory Committee, shall periodically review
23 and, as appropriate, amend the technical standards pre-
24 scribed under subsection (a) to reflect technological ad-
25 vances or changes.

1 **SEC. 4. STATE REQUIREMENTS FOR ENSURING TIMELY**
2 **PROVISION OF INSTRUCTIONAL MATERIALS**
3 **TO STUDENTS.**

4 (a) STATE OBLIGATIONS.—

5 (1) STATEWIDE PLAN.—Not later than 2 years
6 after the date of enactment of this Act, a State edu-
7 cational agency receiving Federal financial assist-
8 ance under the Individuals with Disabilities Edu-
9 cation Act (20 U.S.C. 1400 et seq.) shall, as a con-
10 dition of receiving such assistance, develop and im-
11 plement a written statewide plan designed to ensure
12 that instructional materials for classroom use in ele-
13 mentary schools and secondary schools within the
14 State are made available in specialized formats to
15 individuals who are blind or have other print disabil-
16 ities at the same time such materials are provided
17 to individuals without such disabilities.

18 (2) COORDINATION.—A statewide plan sub-
19 mitted by a State educational agency under para-
20 graph (1) shall, to the maximum extent practicable,
21 be coordinated with any State program improvement
22 grant received by such agency under subpart 1 of
23 part D of the Individuals with Disabilities Education
24 Act (20 U.S.C. 1451 et seq.), and shall contain an
25 outline of the activities that such agency intends to

1 carry out using amounts received under the grant to
2 achieve the purpose of this Act.

3 (3) CONTENTS.—At a minimum, a statewide
4 plan developed under paragraph (1) shall—

5 (A) designate the entity responsible for col-
6 lecting and maintaining data related to identi-
7 fication of individuals who are blind or have
8 other print disabilities and who require instruc-
9 tional materials in specialized formats;

10 (B) establish the methods and procedures
11 by which instructional materials are provided in
12 specialized formats appropriate to the needs of
13 the individual, including the methods for con-
14 verting electronic files obtained under sub-
15 section (b) into specialized formats;

16 (C) identify the resources available for pro-
17 duction of instructional materials in specialized
18 formats;

19 (D) establish procedures that local edu-
20 cational agencies and any other agency with re-
21 sponsibility for carrying out the education of
22 children with disabilities will follow to ensure
23 the timely delivery of instructional materials in
24 specialized formats;

1 (E) provide assurances that contracts with
2 publishers meet the requirements of subsection
3 (b); and

4 (F) provide for periodic evaluation to en-
5 sure that instructional materials are made
6 available in appropriate specialized formats to
7 individuals who are blind or have other print
8 disabilities at the same time such materials are
9 provided to individuals without such disabilities.

10 (b) CONTRACTS WITH PUBLISHERS.—

11 (1) CONTRACTS FOR STANDARDIZED FILES.—

12 In addition to the requirements of subsection (a), a
13 State educational agency or local educational agency
14 receiving Federal financial assistance under the In-
15 dividuals with Disabilities Education Act (20 U.S.C.
16 1400 et seq.) shall, as part of any instructional ma-
17 terials adoption process, procurement contract, or
18 other practice or instrument used for the purchase
19 of instructional materials, enter into a written con-
20 tract with the publisher of the materials to prepare,
21 in conjunction with the provision of such materials,
22 electronic files containing the contents of the mate-
23 rials in the national electronic file format prescribed
24 under section 3(a). The contract shall be entered

1 into and take effect not later than 3 years after the
2 date of enactment of this Act.

3 (2) CONTENTS OF CONTRACTS.—A contract de-
4 scribed in paragraph (1) shall also provide for the
5 following:

6 (A) PUPIL EDITIONS.—Not later than 30
7 days after the date of ratification of the con-
8 tract, the publisher will transmit to the Na-
9 tional Instructional Materials Access Center
10 electronic files prepared in the national elec-
11 tronic file format prescribed under section 3(a)
12 that correspond to the most recent pupil edition
13 of the materials covered under the contract that
14 is in print on the date of ratification of the con-
15 tract, along with a print copy of such materials.
16 If the most current pupil edition of such in-
17 structional materials in print on the date of
18 ratification of the contract is, or will be, altered
19 prior to the use of the materials in the class-
20 room or if no such edition exists on such date,
21 the publisher will, by a date specified in the
22 contract, transmit to the Center—

23 (i) electronic files containing a com-
24 plete record of corrections and changes
25 made to such instructional materials; or

1 (ii) electronic files prepared in the na-
2 tional electronic file format prescribed
3 under section 3(a) that correspond to the
4 pupil edition of such instructional mate-
5 rials that will be used in the classroom.

6 (B) TEACHER EDITIONS.—Not later than
7 30 days after receipt of a request from the Na-
8 tional Instructional Materials Access Center
9 made on behalf of a teacher, the publisher will
10 transmit to the Center electronic files prepared
11 in the national electronic file format prescribed
12 under section 3(a) that correspond to the teach-
13 er edition of the requested instructional mate-
14 rials covered under the contract, if the request
15 includes—

16 (i) a specific description of the in-
17 structional materials needed by the teacher
18 (including, if applicable, an International
19 Standard Book Number (ISBN)); and

20 (ii) a certification that the teacher is
21 blind or has a print disability.

22 (c) PREEMPTION OF INCONSISTENT STATE AND
23 LOCAL REQUIREMENTS.—Except as provided in sub-
24 section (d), subsection (b) supersedes any inconsistent re-
25 quirements in the laws or regulations of any State or local

1 government, with respect to publishers providing instruc-
2 tional materials in the form of electronic files intended for
3 conversion into specialized formats to be used by blind or
4 other persons with print disabilities.

5 (d) RIGHT OF CONTRACT.—Notwithstanding the re-
6 quirements of this section, nothing in this Act may be con-
7 strued to impair the right of any State educational agency
8 or local educational agency to enter into a contract with
9 any publisher of instructional materials for the purpose
10 of directly obtaining from such publisher copies of elec-
11 tronic files prepared and transmitted in accordance with
12 this section.

13 **SEC. 5. NATIONAL INSTRUCTIONAL MATERIALS ACCESS**
14 **CENTER.**

15 (a) ESTABLISHMENT.—Not later than 2 years after
16 the date of enactment of this Act, the Secretary shall es-
17 tablish a center, to be known as the National Instructional
18 Materials Access Center, which shall coordinate the acqui-
19 sition and distribution of instructional materials in the na-
20 tional electronic file format prescribed under section 3(a).

21 (b) RESPONSIBILITIES.—The duties of the Center are
22 the following:

23 (1) To monitor the needs of State educational
24 agencies and local educational agencies for instruc-
25 tional materials in specialized formats and to take

1 appropriate administrative steps to assist such agen-
2 cies in ensuring that instructional materials in the
3 form of electronic files are submitted by publishers
4 to the Center under section 4(b).

5 (2) To receive instructional materials under sec-
6 tion 4(b) in the national electronic file format pre-
7 scribed under section 3(a) and to provide authorized
8 entities with access to such files, free of charge.

9 (3) To verify the receipt and compliance of the
10 materials received under section 4(b) with the na-
11 tional electronic file format prescribed under section
12 3(a).

13 (4) To prescribe and publish policies and guide-
14 lines which the Center will use for the submission,
15 cataloging, retrieval, and distribution of instructional
16 materials in the national electronic file format pre-
17 scribed under section 3(a).

18 (5) To prescribe and publish terms and proce-
19 dures for approval of authorized entities registering
20 with the Center to obtain access to the instructional
21 materials in the national electronic file format pre-
22 scribed under section 3(a).

23 (6) To provide access to the materials received
24 under section 4(b) to authorized entities and to co-
25 ordinate, as appropriate, with other programs pro-

1 viding access to instructional materials in specialized
2 formats.

3 (7) To take such administrative steps as may
4 be needed to coordinate the efficient acquisition and
5 distribution of instructional materials in the national
6 electronic file format prescribed under section 3(a).

7 (8) Promptly to forward to the appropriate
8 publisher of instructional materials a request made
9 under section 4(b)(2)(B) received for materials need-
10 ed for a teacher.

11 (9) To develop, adopt, and publish procedures
12 to protect against copyright infringement and other-
13 wise to administratively assure compliance with title
14 17, United States Code, with respect to the instruc-
15 tional materials provided under this Act.

16 (c) CONTRACT AUTHORIZED.—To assist in carrying
17 out subsection (a), the Secretary shall award, on a com-
18 petitive basis, a contract renewable on a biannual basis
19 with a nonprofit organization, or with a consortium of
20 such organizations, determined by the Secretary to be best
21 qualified to carry out the responsibilities described in sub-
22 section (b). The contractor shall report directly to the As-
23 sistant Secretary for Special Education and Rehabilitative
24 Services of the Department of Education.

1 **SEC. 6. GRANTS FOR CAPACITY BUILDING.**

2 (a) **AUTHORITY TO AWARD GRANTS.**—The Secretary
3 may award grants to the eligible entities under subsection
4 (b) (or a consortium of such entities) to provide or improve
5 the capacity of such entities to prepare or obtain instruc-
6 tional materials in specialized formats (including the na-
7 tional electronic format prescribed under section 3(a)).

8 (b) **ELIGIBLE ENTITIES.**—The following are entities
9 eligible for a grant under this section:

10 (1) State educational agencies.

11 (2) Regional consortia of State educational
12 agencies.

13 (3) Local educational agencies.

14 (4) Nonprofit organizations the primary mission
15 of which is to provide specialized services relating to
16 training, education, or adaptive reading or the infor-
17 mation access needs of blind persons or other per-
18 sons with print disabilities.

19 (c) **APPLICATION.**—An eligible entity that desires to
20 receive a grant under this section shall submit an applica-
21 tion to the Secretary at such time, in such manner, and
22 containing such information as the Secretary may require.
23 The application shall include each of the following:

24 (1) A description of the entity's current capac-
25 ity to prepare instructional materials in specialized
26 formats.

1 (2) The entity's assessment of needs to be met
2 within the geographic area to be served.

3 (3) A plan for working with other similar enti-
4 ties in order to ensure a coordinated approach in
5 meeting such needs.

6 (4) A description of proposed training of tran-
7 scribers and others who prepare instructional mate-
8 rials in specialized formats and, if appropriate, spec-
9 ification of the technology to be obtained and used
10 in the program.

11 (5) An assurance that the entity is, and shall
12 remain, in compliance with the provisions of section
13 121 of title 17, United States Code, regarding the
14 reproduction and distribution of copyrighted instruc-
15 tional materials in specialized formats.

16 (d) PROCEDURES.—The Secretary may prescribe
17 rules or procedures to carry out this section.

18 **SEC. 7. ENFORCEMENT.**

19 (a) RIGHTS, REMEDIES, AND PROCEDURES.—The
20 rights, remedies, and procedures available to children and
21 parents under subsections (b)(6), (e), (f), and (g) of sec-
22 tion 615 of the Individuals with Disabilities Education Act
23 (20 U.S.C. 1415) and section 504 of the Rehabilitation
24 Act of 1973 (29 U.S.C. 794) shall be the rights, remedies,
25 and procedures available under this Act to children and

1 parents aggrieved by violations of this Act by any State
2 educational agency or local educational agency.

3 (b) RULE OF CONSTRUCTION.—This Act may not be
4 construed to limit any right, remedy, or procedure other-
5 wise available under any other provision of Federal law
6 that provides greater or equal protection for the rights of
7 blind persons or other persons with print disabilities.

8 **SEC. 8. RELATIONSHIP TO SECTION 121 OF THE COPYRIGHT**
9 **ACT.**

10 (a) AUTHORIZED ENTITY.—A publisher that provides
11 instructional materials to a State educational agency or
12 local educational agency in the national electronic file for-
13 mat prescribed under section 3(a), shall, for such pur-
14 poses, be considered an authorized entity within the mean-
15 ing of section 121 of title 17, United States Code.

16 (b) NONINFRINGEMENT USE.—Reproduction or distribu-
17 tion of instructional materials in a large print format ex-
18 clusively for use by blind persons, or other persons with
19 print disabilities, in elementary schools or secondary
20 schools shall be considered a noninfringing use of such
21 materials when conducted by an authorized entity (as that
22 term is defined in section 121 of title 17, United States
23 Code).

1 **SEC. 9. SUPPLEMENT, NOT SUPPLANT.**

2 Funds made available under this Act shall be used
3 to supplement, and not to supplant, any other Federal,
4 State, local, or non-Federal funds available to carry out
5 this Act.

6 **SEC. 10. RESEARCH AND REPORTS.**

7 (a) RESEARCH.—The Secretary shall conduct re-
8 search, directly or by grant or contract, about the effect
9 of this Act on the timely delivery of instructional materials
10 in specialized formats to students who are blind or have
11 other print disabilities.

12 (b) REPORTS.—Not later than 3 years after the date
13 of enactment of this Act, and biennially thereafter, the
14 Secretary shall submit to the appropriate committees of
15 Congress a report containing the results of the research
16 described in subsection (a) and additionally, at a min-
17 imum, the following information:

18 (1) The number of students directly affected by
19 this Act.

20 (2) The annual cost incurred to carry out this
21 Act by the Federal Government, State governments,
22 and nonprofit entities that may be involved in ad-
23 ministering this Act.

24 (3) The financial and in-kind contributions of
25 State and local governments, and private nonprofit

1 and for-profit entities, to activities conducted under
2 this Act.

3 (4) Changes in the percentage of individuals
4 who receive appropriate instructional materials in
5 specialized formats at the beginning of a school year
6 compared to the percentage for the beginning of the
7 preceding school year.

8 (5) Changes in the timeliness of delivery of ap-
9 propriate instructional materials in specialized for-
10 mats from the beginning of one school year to the
11 beginning of the next school year.

12 (6) The extent to which States and local edu-
13 cational agencies have been able to satisfy require-
14 ments of compliance agreements or take other cor-
15 rective actions regarding the timely delivery of ap-
16 propriate instructional materials.

17 (7) Such other matters as the Secretary con-
18 siders to be relevant and appropriate.

19 **SEC. 11. DEFINITIONS.**

20 In this Act:

21 (1) The term “print disability” means, with re-
22 spect to an individual, student, or teacher, eligibility
23 or qualification under the Act of March 3, 1931, en-
24 titled “An Act to provide books for the adult blind”

1 (2 U.S.C. 135a), to receive books and other publica-
2 tions produced in specialized formats.

3 (2) The term “instructional materials” means
4 printed textbooks and related core materials that are
5 written and published primarily for use in elemen-
6 tary school and secondary school instruction and are
7 required by a State educational agency or local edu-
8 cational agency for use in the classroom, including
9 teacher editions of such materials requested under
10 section 4(b)(2)(B).

11 (3) The term “national electronic file format”
12 means a well-organized, structured, and marked-up
13 electronic file that is suitable for efficient conversion
14 into specialized formats and that is in conformance
15 with the technical standards prescribed under sec-
16 tion 3(a).

17 (4) The term “Center” means the National In-
18 structional Materials Access Center established by
19 the Secretary under section 5.

20 (5) The term “Secretary” means the Secretary
21 of Education.

22 (6) The term “specialized format”, with respect
23 to instructional materials, means Braille, synthesized
24 speech, digital text, digital audio, or large print.

1 (7) The terms “State educational agency”,
2 “local educational agency”, “elementary school”,
3 and “secondary school” have the meanings given
4 those terms in section 9101 of the Elementary and
5 Secondary Education Act of 1965 (20 U.S.C. 7801).

6 **SEC. 12. EFFECTIVE DATE.**

7 This Act shall take effect upon its enactment and
8 shall apply to instructional materials published and copy-
9 righted after the date on which the technical standards
10 prescribed under section 3(a) take effect.

11 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated to carry out this Act \$4,000,000 for fiscal year
14 2004 and such sums as may be necessary for each of the
15 6 succeeding fiscal years.

16 (b) RESERVATION.—From the amount appropriated
17 under subsection (a) for each fiscal year to carry out this
18 Act, the Secretary shall reserve \$1,500,000 to carry out
19 section 5.

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